

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MONA DOBRICH, et al.,
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:
Plaintiffs,
:
:
v. Civil Action No. 05-120-JJF
:
:
THE INDIAN RIVER SCHOOL
:
DISTRICT, et al.,
:
:
Defendants.
:

RULE 16 SCHEDULING ORDER FOR ISSUES OTHER
THAN THE INDIAN RIVER SCHOOL BOARD'S PRAYER POLICY

On March 24, 2006, the Court ordered that discovery would proceed in two phases: (1) the constitutionality of the Indian River School Board's Prayer Policy as written and as applied (the "School Board Prayer Issue"), and (2) all remaining issues (the "Remaining Issues"). A separate Scheduling Order governs the School Board Prayer Issues. The parties have agreed to a Scheduling Order on the Remaining Issues, with the exception of (1) the number and duration of non-party, non-expert depositions, (2) the location of Rule 35 examinations, and (3) the limitation on case dispositive motions. The Court has considered the parties' positions on the disputed issues and concludes that Defendants' proposals should be adopted.

This Scheduling Order shall govern discovery pertaining to the Remaining Issues. The Court concludes that the parties have satisfied their obligations under Fed. R. Civ. P. 26(f), and

therefore;

IT IS HEREBY ORDERED that:

1. **Identification of the Doe Plaintiffs.** The parties shall negotiate a confidentiality order governing disclosure of the Does' identities in accordance with the Court's Memorandum Order dated May 25, 2006. If the parties cannot agree on a confidentiality order within twenty (20) days from the entry of this Scheduling Order, they shall separately submit a proposed confidentiality order. Upon entry of a confidentiality order by the Court, Plaintiffs' counsel shall identify by name and address each of the Doe Plaintiffs to counsel for the School Board and the School District. Further relief with respect to this issue shall be governed by the Court's May 25, 2006 Memorandum Order.

2. **Joinder of Other Parties.** All motions to join other parties shall be filed on or before September 30, 2006.

3. **Discovery.**

(a) Exchange and completion of interrogatories, identification of all fact witnesses and document production shall commence on June 26, 2006 so as to be completed by January 5, 2007.

(b) Maximum of fifty (50) interrogatories by each group to any other group. For purposes of this subsection, the following shall each count as a group: (1) the Indian River

School District Defendants; (2) the Dobrich Plaintiffs; and (3) the Doe Plaintiffs.

(c) Maximum of fifty (50) request for admission by each group to any other group. For purposes of this subsection, the following shall each count as a group: (1) the Indian River School District Defendants; (2) the Dobrich Plaintiffs; and (3) the Doe Plaintiffs.

(d) Absent agreement of the parties or leave of Court for good cause shown, Plaintiffs as a group and Defendants as a group may take a maximum of twenty (20) non-party, non-expert depositions, of which ten (10) shall not exceed three (3) hours in length. Plaintiffs as a group and Defendants as a group shall each take a maximum of twenty (20) depositions from individuals, and their successors in office appearing in this case only in their official capacities. The depositions of individuals, and their successors in office, appearing in this case in their official capacities shall not count towards any party's maximum number of non-party, non-expert depositions. Depositions may commence sixty (60) days after the entry of this Order and shall be completed by December 22, 2006.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from Plaintiffs by October 9, 2006, from Defendants by November 8, 2006, and rebuttal reports are due by

December 9, 2006.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than December 22, 2006.

(g) Any Plaintiff who contends that he or she has incurred a mental or physical condition as a result of the allegations in the Complaint or otherwise seeks damages for such mental or physical condition in this action shall submit to a physical or mental examination on or before October 9, 2006, by a suitably licensed or certified examiner selected by Defendants. The following conditions apply to this subsection.

(1) Defendants' examiners' report(s) will be due on November 8, 2006, and Plaintiffs' rebuttal reports are due by December 9, 2006. Depositions of examiners, if requested, shall be completed by December 22, 2006.

(2) During the examination of any minor, that minor's parent, legal guardian or attorney must be present during the course of the examination.

(3) Any examination must take place either (a) within the State of Delaware, or (b) within 25 miles of the State of Delaware.

4. Discovery Disputes.

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the answer, the movant shall notify Chambers by email at jjf_civil@ded.uscourts.gov that the parties have completed briefing.

(d) Upon receipt of the movant's e-mail the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

(f) The Court will hold two discovery dispute conferences to resolve disputes that develop during discovery on the Remaining Issues. The first discovery dispute conference shall be held during the week of September 4, 2006. The second

discovery dispute conference shall be held during the week of November 13, 2006.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before September 30, 2006.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before January 26, 2007. Briefing shall be pursuant to D. Del. L.R. 7.1.2. Case dispositive motions shall be limited to one (1) motion per side. No dispositive motions concerning the Remaining Issues may be filed before January 26, 2007.

7. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. L.R. 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

8. Pretrial Conference and Trial.

(a) A pretrial conference will be held on **Thursday, April 5, 2007** at **11:00 a.m.** in Courtroom No. 4B on the 4th Floor, Boggs Federal Building, Wilmington, Delaware. The Federal Rules of Civil Procedure and Rule 16.5 of the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995) shall govern the pretrial conference.

(b) Trial will commence on **Monday, June 4, 2007.**

June 1, 2006
Date


UNITED STATES DISTRICT JUDGE